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California Regional Water Quality Control Board North Coast Region

John W. Corbett, Chairman

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Arnold
Schwarzenegger
Governor

July 5, 2007

In the Matter of

Water Quality Certification

for the

CHERRY RANCH, LLC, CHERRY RANCH PROJECT: WDID NO. 1B02040WNSO

APPLICANT:	Mr. Harvey Rich and Cherry Ranch, LLC
RECEIVING WATER:	Seasonal wetlands
HYDROLOGIC AREA:	Middle Russian River Hydrologic Area No. 114.21
COUNTY:	Sonoma County
FILE NAME:	Cherry Ranch Project

BY THE EXECUTIVE OFFICER:

1. On March 1, 2007 Mr. Jeff Olberding of Olberding Environmental, Inc., on behalf of Mr. Harvey Rich and Cherry Ranch, LLC (Applicant), filed an application for water quality certification under section 401 of the Clean Water Act (33 U.S.C. § 1341) with the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) for activities associated with the Cherry Ranch Project (Project). The Regional Water Board provided public notice of the application pursuant to title 23, California Code of Regulations, section 3858 on June 7, 2007, and posted information describing the Project on the Regional Water Board's website. No comments were received.
2. The Project is located south of Sebastopol Road and north of the Former Santa Rosa Air Center, at 930 Fresno Avenue in Santa Rosa, APN 035-101-004. The purpose of the project is to provide housing which meets existing demands in Santa Rosa.
3. The Project consists of the construction of 39 detached, single-family homes on 7.13 acres. Individual lots will range in size from approximately 4,600 square feet to 7,500 square feet. Approximately 2.5 acres of the site will remain as pervious area, mostly in the form of yard area and landscaping. The remainder of the site will be impervious area in the form of roofs, driveways, and roads. Site preparation will

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require extensive earth moving throughout the project area to establish necessary grades for house lots, roads, stormwater drainage and other development infrastructure.

4. The total area of waters of the State to be impacted is 0.446 acres, of 0.4 acres is seasonal wetlands and 0.046 acres is a drainage ditch. The completion of the project will also result in impacts to 5.99 acres of California tiger salamander (CTS) habitat.
5. Compensatory mitigation for the Project will be attained through the purchase of 0.4 acres of wetland creation credits and 0.4 acres of wetland preservation credits from the Hale Mitigation Bank. An additional 0.08 acres of wetland creation credits will be purchased from the Hazel Mitigation Bank. Impacts to CTS habitat will be mitigated through the purchase of 16.47 acres of preservation credits from the Christina Preserve and 1.5 acres of preservation credits from the Hazel Mitigation Bank.
6. Non-compensatory mitigation measures include the use of standard erosion control Best Management Practices (BMPs) to eliminate or reduce project construction impacts on habitat and waters draining outside the work areas. Post construction stormwater treatment controls will include rain gardens and bioswales. Each lot has been designed with both bioswales to carry and treat stormwater runoff from the houses and backyards. Rain gardens will be placed between the street and the sidewalk to treat stormwater from the front of lots and streets. Curb cuts will allow for stormwater running off the streets to enter the rain gardens and receive treatment prior to entering the storm drain system. The swales and rain gardens will be monitored and maintained by the homeowners association. Monitoring reports will be provided annually to the Regional Water Board to ensure the continuation of proper function.
7. On November 16, 2006, the City of Santa Rosa adopted a mitigated negative declaration (SCH No. 2006082063) for the Project in order to comply with CEQA. The Regional Water Board has considered the environmental document and any proposed changes incorporated into the project or required as a condition of approval to avoid significant effects to the environment.
8. The Applicant has filed a permit application with the United States Army Corps of Engineers for a 404 permit for the Project, the permit is still pending. File number 26570N.
9. A Biological Opinion was issued for the Project by the United States Fish and Wildlife Service on February 14, 2006. File Number 1-1-06F-0054

Receiving Water: Seasonal wetlands and an unnamed tributary
Middle Russian River Hydrologic Area No. 114.20
Russian River Unit No.114.00

Latitude/Longitude: 38.423675° North, 122.759097° West

Area Permanently Impacted: Approximately 0.446 acres

Expiration: October 15, 2011.

ACCORDINGLY, BASED ON ITS INDEPENDENT REVIEW OF THE RECORD, THE REGIONAL WATER BOARD CERTIFIES THAT THE CHERRY RANCH PROJECT (FACILITY NO. 1B02040WNSO), as described in the application will comply with sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law, provided that Applicant complies with the following terms and conditions:

1. This certification action is subject to modification or revocation upon administrative or judicial review; including review and amendment pursuant to Water Code section 13330 and title 23, California Code of Regulations, section 3867.
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to title 23, California Code of Regulations, section 3855, subdivision (b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This certification is conditioned upon total payment of any fee required under chapter 28, title 23, California Code of Regulations, and owed by the Applicant.
4. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification (Enclosed).
5. This Water Quality Certification is contingent on compliance with all applicable requirements of the North Coast Region Water Quality Control Plan (Basin Plan), except as may be modified by the specific conditions of the Water Quality Certification.
6. Applicant shall construct the Project in accordance with the conditions described in the application and the findings above, and shall comply with all applicable water quality standards.
7. Applicant shall provide Regional Water Board staff access to the Project site to document compliance with this certification.
8. Applicant shall provide a copy of this certification and attachments to the contractor and all subcontractors conducting the work, and require that copies remain in their possession at the work site. Applicant shall be responsible for work conducted by its contractor or subcontractors.

9. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under applicable State or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. In response to a suspected violation of any condition of this certification, the State Water Board may require the holder of any federal permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the State Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In response to any violation of the conditions of this certification, the State Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.
10. If, at any time, an unauthorized discharge to surface waters occurs, or any situation arises that compromises water quality and its beneficial uses, Applicant shall immediately cease work on the Project and notify the Regional Water Board.
11. The Regional Water Board may add to or modify the conditions of this certification, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.
12. This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board. The successor-in-interest must send to the Regional Water Board Executive Office a written request for transfer of this Order to discharge dredged or fill material under this Order. The request must contain the following:
 - a. requesting entity's full legal name
 - b. the state of incorporation, if a corporation
 - c. address and phone number of contact person
 - d. description of any changes to the Project or confirmation that the successor-in-interest intends to implement the Project as described in this Order.
13. Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in strict compliance with the Applicant's Project description, and b) compliance with all applicable requirements of the Basin Plan.

14. The authorization of this certification for any dredge and fill activities expires on October 15, 2011. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.
15. Any change to the operation of the Project that would have a significant or material effect on the findings, conclusions, or conditions of this certification must be submitted to the Executive Officer of the Regional Water Board for prior review and written approval.
16. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this permit, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State.
17. When operations are complete, any excess material or debris shall be removed from the work area and disposed of properly.
18. If construction dewatering is found to be necessary, the Applicant shall use a method of water disposal other than disposal to surface waters (such as land disposal) or the Applicant shall apply for coverage under the General Construction Dewatering Permit and receive notification of coverage to discharge to surface waters.
19. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall be outside of waters of the United States and the State. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall not result in a discharge or a threatened discharge to any waters of the State or the United States. At no time shall the Applicant use any vehicle or equipment, which leaks any substance that may impact water quality.
20. BMPs for erosion, sediment and turbidity control shall be implemented and in place at commencement of, during and after any ground clearing activities, construction activities, or any other Project activities that could result in erosion or sediment discharges to surface water.
21. If, at any time, an unauthorized discharge to surface water (including wetlands, rivers or streams) occurs, or any water quality problem arises, the associated Project activities shall cease immediately until adequate BMPs are implemented. The Regional Water Board shall be notified promptly and in no case more than 24 hours after the unauthorized discharge or water quality problem arises.

Please contact Stephen Bargsten of our staff at (707) 576-2653 if you have any questions.

Catherine E. Kuhlman
Executive Officer

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Enclosures: State Water Resources Control Board Order No. 2003-0017-DWQ, General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification.

Original sent to: Mr. Harvey Rich, Cherry Ranch, LLC, c/o Tri Development Company, LLC, 336 Bon Air Center, Box 387, Greenbrae, CA 94904

Copies sent to: Mr. Bill Orme, SWRCB, Acting 401 Program Manager, Clean Water Act Section 401 Certification and Wetlands Unit Program

Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 1455 Market Street, San Francisco, CA 94103-1398

Mr. Jeff Olberding, Olberding Environmental, Inc, 1390 Willow Pass Road, Suite 370, Concord, CA 94520